

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

ANDRED CLINTON DAVIS, JR.,

Plaintiff,

v.

CIVIL ACTION NO. 3:22-00150

PAUL DIAMOND and
CHRISTOPHER FLEMING,

Defendants.

MEMORANDUM OPINION AND ORDER

Plaintiff filed a pro se letter-form motion asking for appointment of counsel. ECF No. 71. This motion follows a series of letter-form responses from Plaintiff complaining that he needs assistance to maintain this civil action, all of which have been denied. Unlike a criminal case where a defendant has a right to appointed counsel, this case is a civil action and there is no right to appointed counsel, though Plaintiff may proceed without a lawyer. The Court cannot appoint a lawyer for Plaintiff. The Court again **DENIES** his motion.

This action was referred to the Honorable Dwane L. Tinsley, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted Findings of Fact and recommended that the Court grant Defendants Diamond and Fleming's Motion to Dismiss With Prejudice for Failure to Prosecute (ECF No. 53) and Renewal of Motion to Dismiss (ECF No. 63) and remove this matter from the Court's docket. Despite the clear instruction in the proposed findings of fact and recommendation that Plaintiff must file an objection and the

extension of time to do so, Plaintiff has not filed an objection. Instead, he continues to seek appointment of counsel even though his requests have been denied. Therefore, the Court will proceed with disposition of the proposed findings of fact and recommendation.

The Court accepts and incorporates herein the findings and recommendation of the Magistrate Judge and **GRANTS** Defendants Diamond and Fleming's Motion to Dismiss With Prejudice for Failure to Prosecute (ECF No. 53) and Renewal of Motion to Dismiss (ECF No. 63) and **REMOVES** this matter from the Court's docket.

The Court **DIRECTS** the Clerk to forward copies of this written opinion and order to all counsel of record, and any unrepresented parties.

ENTER: December 7, 2023

A handwritten signature in black ink, appearing to read 'Robert C. Chambers', written over a horizontal line.

ROBERT C. CHAMBERS
UNITED STATES DISTRICT JUDGE